UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/1989/5/Add.5
28 February 1991

ENGLISH
Original: SPANISH

First regular session of 1991

IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Additional information submitted by States parties to the Covenant in connection with the consideration of their reports by the Committee on Economic, Social and Cultural Rights

Addendum

PANAMA*

[13 December 1990]

ARTICLE 6: THE RIGHT TO WORK

1. Panamanian law contains a number of provisions that promote and safeguard the right to work. For example, the Constitution of the Republic of Panama sets forth, in part III, chapter 3, on "Work", provisions which recognize that work is a right and a duty of the individual.

2. Article 60 of the Constitution reads:

> Article 60. "Work is a right and a duty of the individual and hence the State is under an obligation to devise economic policies to promote full employment and ensure the requisite conditions for a decent life for every worker".

---

* By a note dated 13 December 1990, the Government of Panama submitted additional information which relates to the Committee's consideration of its reports (initial report concerning articles 6-9 and second periodic report concerning articles 10-12 of the Covenant) and is reproduced in the present document.

3. In this respect, the Labour Code, states in article 1 that "This Code shall govern the relationship between capital and labour, providing for special protection of workers by the State, with State intervention to make remunerated employment available to all those without work and to ensure the requisite conditions for a decent life for every worker".

4. In addition, in Book I, Part I, the Labour Code lays down the general rules for the protection of labour, establishing measures intended to protect the employment of Panamanian nationals: job placement through the Ministry of Labour and Social Welfare's National Employment Exchange; the working day and compulsory periods of rest. In addition, Book I, Part III, of the Code includes special rules on protection of labour with regard to the recruitment of Panamanians for work outside Panamanian territory and on work by women and minors.

5. It can be seen that the corpus of laws on this topic, ranging from the Constitution to the Labour Code, uphold everyone's right to earn a living, within these parameters. However, it is of great importance to note that the political and economic situation in the Republic of Panama between 1987 and 1989 created great disorder in all sectors throughout the country, and employment and its inherent freedoms, rights and obligations were no exception, since the situation had a significant impact on the labour market.

Employment

6. The crisis caused in mid-1987 by the unchecked sway of the military dictatorship over the State's institutional structure brought Panama to the worst social and economic breakdown in its existence as an independent country.

7. Indeed, by the end of 1989, the domestic product fell by nearly 20 per cent compared with the 1987, the central Government's current income fell by 15 per cent and the rate of unemployment rose to 20 per cent in the metropolitan area. Construction, manufacturing, trade and services were the worst affected sectors. Similarly, all economic indicators of consumption, investment, exports and imports showed significant declines.

8. As far as employment is concerned, the August 1988 household surveys showed that approximately 45,000 employees in the private sector had been dismissed nationwide, and they and their families bore the brunt of the social cost of the crisis.

9. Consequently, the absolute figure for the number of unemployed, which stood at 91,125 (11.8 per cent of the labour force) in August 1987, rose to 125,158 in August 1988 (16 per cent). For greater details, documents are attached and include statistical tables on the employment situation, namely:

(a) "The employment situation in Panama as a result of the crisis" (annex 1-A).

(b) "Changes in the employment situation in Panama, according to household surveys (August 1987-1988)" (annex 1-B).

10. The labour cost and social cost of the process, however, have been much greater, since the statistical data in these documents do not include the visible worsening of underemployment and hence of the earnings of workers who

have had (and will necessarily have) to earn a living from informal, unproductive or insufficient work. Nor do the documents take account of young people and women forced to go without work because of the lack of jobs, or again, take account of the uncertain and frustrating prospects for young people finishing secondary school and higher education. This is all undoubtedly reflected in a marked deterioration in the living standards of Panamanian families.

11. Despite the magnitude of the Panamanian crisis in recent years, the State has, through government agencies, principally labour agencies, devised certain employment policy tools and programmes to offset the impact of the labour problem. Some of these efforts are indicated below.

12. With the help of the PAN/86/010 Employment policies and programmes project, the Ministry of Labour and Social Welfare (MITRABS) completed the design of eight public investment projects to create jobs over the short term, so as to absorb needy unemployed persons, in both urban and rural areas. The projects are the following:

(a) Intensive use of manpower (UIMO);

(b) Road maintenance;

(c) United Nations Park, Old Panama City;

(d) Portobelo Park;

(e) San Lorenzo Park;

(f) Renovation of facades in Old Panama City;

(g) Self-employment office;

(h) Rural and urban producers' organizations.

13. Brief information on these projects is contained in annex 1-C.

14. These projects are for internal use of manpower and will create temporary jobs for 26,087 people for an average of six months, which will generate minimum earnings for 143,435 people, if each worker's family is included. The total external cost of the projects is 8,416.929 million balboas, 65 per cent which is intended to pay the workers, who are in the main unskilled or semi-skilled. The projects have been approved by the Ministry of Planning and Economic Policy (MIPPE) for inclusion in the list of activities that the present Government has programmed under the "Emergency Plan", to be executed once the necessary external funding has been obtained.

15. MITRABS has worked out the preliminary version of the "Labour Bank (BANTRA)" project, designed as a tool to create jobs and protect sources of employment, earnings and level of consumption.

16. The Labour Bank is designed as a tripartite project, with the participation of the government sector and employers' and workers'

organizations; in the initial stage, a Special Job Creation Fund (FEFE) will be established, and in the second stage, BANTRA itself. See annex 1-D for the project in question.

17. As part of the initiatives to broaden opportunities for jobs and training for young people, MITRABS, in coordination with the National Vocational Training Institute (INAFORP), has established a commission to prepare "Apprenticeship Regulations" setting out clear and equitable rules to promote apprenticeship and vocational training across the nation.

18. With technical support from the PAN/86/010 employment policies and programmes project, MITRABS, seeking to strengthen the National Directorate of Employment and broaden its field of action, adopted decision DM-38/88 of 2 December 1988 and established the Self-Employment Assistance Office, which carries out self-management activities and is intended to implement special programmes, and provide technical guidance and advice and financial support for the poorer segments of the population (women, heads of households, young people, whether unemployed or underemployed) that make up the informal sector of the economy. The technical staff consists of representatives of the National Directorate of Employment and the National Directorate for Children and the Family, which form part of MITRABS, and the National Vocational Training Institute (INAFORP). A copy of the decision in question is attached in annex 1-E.

19. As part of the activities of this new Office, a programme known as the "Tools Bank" was introduced in 1989, the purpose being to support unemployed workers and, through the hire purchase of tools, to encourage them to engage in productive activities on their own account. The Bank helps independent workers of slender means, chiefly heads of households in the metropolitan area and in San Miguelito, by supporting them with basic tools for self-management activities.

20. The Tools Bank operates successfully, thanks to a donation of 25,000 balboas from the International Labour Organisation (ILO). It uses two methods, hire purchase or rental of tools:

(a) Hire purchase. This is the most common method and provides the selected user with basic tools, repayments being made at convenient intervals and at low interest. Payments are worked out from the MICI small-loan interest tables (12 per cent a year and 1 per cent a month). The user must fulfil certain requirements: his case is evaluated and he must designate a co-debtor who is attested as having a job. Users who find it difficult to secure a co-debtor must pay an amount into the account and then take the tools when the account is settled;

(b) Rental. This supplies the user with more expensive tools by means of daily rental under established procedures. The following are taken into account for payment purposes: cost of tool, social welfare afforded by the project, rental period, market price and depreciation of tools. So far, this method has not been widely promoted, but it has been requested by users and plans are under way to use it.

21. Annex 1-F contains information on users helped by the Tools Bank in 1989-1990.

22. Under the PAN/86/010 employment policies and programmes project, MITRABS has been successful in arranging "Organizational Experimental Workshops" to help unemployed people in rural and urban areas set up community undertakings which will, in turn, create jobs. In this connection, a month-long organizational workshop was held in Garachiné (Darién) for 110 unemployed people and it ended with the establishment of the La Merced firm. Eight investment projects were identified:

(a) Establishment of the La Merced (Garachiné) and Union Progresista (Jaqué) Savings and Loans Cooperatives;

(b) Passenger and Cargo Boat Project profile;

(c) Door and Window Factory Project Profile;

(d) Bakery Project Profile;

(e) Fishing Boat Project Profile;

(f) Agriculture Project Profile: cocoa, bananas and African oilpalms;

(g) Pig-Breeding and Slaughter Project Profile;

(h) La Merced de Garachiné clothing Workshop.

23. Similarly, a month-long organizational workshop for 78 participants was organized and led to the establishment of COMPSEM (Las Mañanitas Garden City Community Production and Services Company). Not only was the company set up, but six projects were identified and designed for investments in construction, agriculture, restaurants, clothing, mechanical engineering and supermarkets.

24. An Experimental Workshop for Professionals in Agricultural Sciences was held and led the establishment of an enterprise called Multi-Agro. In addition, production and service projects were identified and designed for Multi-Agro in basic cereals, seeds, vegetables, pigs, ducks, mechanization, non-traditional fruit produce for export, agro-forestry products and consultancy services.

25. As part of the efforts to increase the National Directorate of Employment's institutional capacity to shape employment policies and specific programmes and projects to lower unemployment and underemployment levels, UNDP and ILO financing and PREALC technical assistance have under the PAN/86/010 project, been used to provide the Directorate with an evaluation team, and an evaluation centre has been formed for scientific surveys of the employment situation, something which will make for a proper scrutiny of the employment programme and of specific proposals to ease a serious situation.

26. With the technical and financial support of the project, work has also been done on implementing a projections model, which is a population, education and manpower model in regard to supply; so far as demand is concerned, manpower is a function of economic growth.

27. This model has been designed as a tool to help planners understand the linkages between population, education, manpower, employment and economic growth and to secure better rationalization of human resources.

28. The model, called MACBETH, consists of four submodels designed for separate use. The submodels are "Population", "Education", "Manpower" and "Economic Growth".

29. Another measure intended to secure the best possible arrangements as regards employment is to use data from the household survey that is conducted every year. This survey is used to determine employment, unemployment, the work-force and so on. However, as a result of the needs of the data collection body (Audit Office of the Republic) no more work is done, and hence published, on a valuable range of data that could increase the information on employment and underemployment. We are succeeding in finding out in detail some additional features of the labour market, such as real levels of underemployment, whether in terms of working hours per week or weekly earnings below the minimum legal wage (visible and invisible underemployment). With this detailed information it will be possible to determine the true dimension of the problem of unemployment.

30. Annex 1-G contains the PAN/86/010 employment policies and programmes project evaluation reports for the years 1988-1989, which set out all the efforts made to design programmes to create jobs and to strengthen the National Directorate of Employment's institutional capacity.

31. As part of the efforts to protect sources of jobs, MITRABS adopted decrees and official communiqués to discourage various forms of mass dismissal during the crisis. These decrees placed bans or controls on "forcible lay-offs", "mutual agreements" and mass dismissals by firms across the nation.

32. The decrees in question are the following:

(a) Decree No. 13, of 30 May 1988;

(b) Decree No. 22, of 5 December 1988;

(c) Decree No. 2, of 26 January 1989;

(d) Decree No. 7, of 28 April 1989.

33. By the end of 1989, the worsening economic situation caused by the civil, political and electoral clash between the people and the ruling dictatorship was sharply aggravated, on the fall of the dictatorship, by acts of looting and vandalism that affected more than 250 business establishments; part or all of the assets, totalling several hundred million dollars, were lost, and thousands of workers were left without a job. This was unprecedented in the life of the nation.

34. It was in this critical situation that the people elected President Endara's Government in elections held on 7 May 1989. The priority at that time was urgent action to cope with the tragic situation of thousands of workers in the streets, with their workplaces looted and destroyed, and the owners overwhelmed by the loss of their business.

35. By law, force majeure or a fortuitous event that immediately and directly entails a complete halt in the employer's activities constitutes justifiable grounds for terminating the labour relationship, and there is no liability on the part of the employer.

36. Hence, the present Government, through MITRABS, immediately sought to bring the parties together in an effort to work out formulas for reconciliation, so as to encourage the employers concerned to obtain the funds necessary to restart their businesses, reopen their premises and thus avoid mass dismissals of workers.

37. To this end, the Cabinet Council received for consideration and adoption, in its legislative capacity, Cabinet Decrees Nos. 5 and 10, of 4 and 12 January 1990 respectively, whereby the periods for suspending the effects of labour contracts were extended, dismissal was made subject to prior authorization by the Ministry of Labour and Social Welfare, and the parties were urged to negotiate temporary agreements on working conditions, subject to Ministry approval, in order to overcome a critical situation and avert any further consequences for the parties.

38. Along with these decrees, MITRABS issued a number of official communiqués to protect the rights of workers. For example, the Communiqué of 2 January 1990 informed employees that they were obliged to pay their workers wages for 20, 21, 22 and 23 December 1989.

39. In the Communiqué dated 5 January 1990, the Ministry urged employers and workers to reach temporary agreements to overcome the present critical situation, bearing in mind the economic harm suffered by employers and, at the same time, preserving sources of jobs and the rights of workers. Consequently, the Cabinet Council extended the time-limit for completing any official formalities in the Ministry to 12 January.

40. Again, it urged parties to arrive at temporary agreements to help overcome the present crisis without extreme measures or decisions, in a spirit of equity and social justice.

41. In the Communiqué of 26 January 1990, MITRABS urged owners of private schools and colleges and teaching and administrative staff to engage in dialogue on salaries and regular vacations from 20 January 1990 onwards, and to reach temporary written agreements, in keeping with the purposes of Cabinet Decree No. 10 of 12 January 1990; such agreements must be submitted for approval by the Ministry.

42. Annex 1-H contains copies of the decrees and communiqués in question.

43. It should be noted that at the present time the Government, through the Ministry of Planning and Economic Policy, has defined the General Guidelines for the Economic Reconstruction Programme, mindful that unemployment is the country's chief problem; the Guidelines are therefore directed at creating new jobs.

44. In this respect, the Government, further to consultations with all sectors involved in productive activities throughout the country, is now engaged in working out the Economic Strategy to reactivate the economy; the Strategy is based on the principles of the political and economic freedoms of the individual.

Statistical data

45. Annex 2 contains statistical data on employment, underemployment and unemployment levels, namely:

(a) Table 3: Employed population aged 15 and over, in the Republic, by region and category of employment; household surveys, August 1983-1988;

(b) Table 4: Economically active population aged 15 and over, metropolitan region, by branch of economic activity, employed and unemployed; household surveys, August 1983-1988;

(c) Table 5: Relative number of unemployed persons aged 15 and over in relation to the economically active population in the metropolitan region, by branch of economic activity; household surveys, August 1983-1988;

(d) Table 6: Employees in the private sector in the Republic, by region, by declared conditions of employment; household survey, August 1988;

(e) Table A: Survey of employment situation by sex and age, Republic of Panama. Households, August 1988;

(f) Table B: Survey of employment situation, by branch of activity, Republic of Panama. Households, August 1988;

(g) Table C: Survey of employment situation, by occupational group. Republic of Panama. Households, August 1988;

(h) Table D: Survey of employment situation, by occupational category. Republic of Panama. Households, August 1988;

(i) Table E: Survey of employment situation, by labour market sector. Republic of Panama. Households, August 1990;

(j) Table F: Survey of employment situation, by educational level. Republic of Panama. Households, August 1988;

(k) Table 1: Population aged 15 and over in the Republic, by region and activity; household surveys, August 1983-1988;

(l) Boletín de Empleo y Salarios (Employment and Wages Bulletin) (MITRABS), 1989, No. 1;

(m) Boletín de Empleo y Salarios (Employment and Wages Bulletin) (MITRABS), 1989, No. 2;

(n) Statistical table on job applications and placements, National Employment Exchange, 1987, 1988 and 1989;

(o) Statistical table on job applications and placements at employment exchanges in Colón, Chiriquí, Panama and San Miguelito, 1987-1989;

(p) List of firms using the National Employment Exchange, 1989.

ARTICLE 7: THE RIGHT TO JUST AND FAVOURABLE CONDITIONS OF WORK

Remuneration

46. Since 1947, national labour legislation has included among its general principles the fundamental right of workers to receive a basic wage which, as a minimum, enables them to meet their basic household needs, such as food, housing, clothing, health, education and other fundamental items such as transport and personal services.

47. The law also provides for a periodic review of this wage, in order to maintain its purchasing power, in the light of specific regional, industrial and commercial conditions.

48. The Labour Code of 1972 encompasses all the provisions laid down in this respect. In other words, national labour legislation seeks to guarantee workers a minimum level of real income which, through periodic review, should either improve or at least remain stable.

49. Minimum wages policy in Panama is planned and implemented by the Ministry of Labour and Social Welfare (MITRABS) which, through the National Minimum Wage Commission, analyses the movement of variables such as wage levels, the cost of living, investment, employment, and the economic situation of major sectors and of the country as a whole, and recommends to the Executive Authority the minimum wage rates to be set for each sector of economic activity and region. It is ultimately the Executive Authority which formally fixes rates through an Executive Decree. The following decrees are currently in force:

(a) Decree No. 3 of 4 March 1980, establishing the minimum wage for Canal activities connected with the use, management, operation, maintenance, protection and defence of the Panama Canal (see annex 3);

(b) Decree No. 21 of 1 December 1982, establishing minimum wages throughout the country (see annex 4).

50. As far as criteria and indicators for establishing minimum wages are concerned, in general the methodology followed is that laid down by ILO, and in particular that established by the 1928 Convention concerning the Creation of Minimum Wage-Fixing Machinery (No. 26), which Panama ratified by Cabinet Decree No. 170 of 4 May 1970.

51. Article 177 of the Labour Code incorporates the above criteria and recommends that the following should be taken into account in fixing the minimum wage:

"1. Regional differences in the cost of living;

2. Overall national economic and social policy in terms of full and sustained development;

3. Employment and income redistribution policy;

4. The nature and hazards of the work;

5. The conditions, time and place of the work;

6. Where appropriate, differences between occupations or trades."

52. As a rule, the above criteria are applied in most countries where the minimum wage is regulated, and those criteria which are of most significance at a particular time in the light of the country's situation are given a greater weighting. Accordingly, the study on which the most recent setting of minimum wages in Panama was based attached greatest importance to the following indicators:

(a) Investment, employment and income policy;

(b) Analysis of basic parameters, such as cost of living, and the basic family shopping basket;

(c) Analysis of the major sectors of the Panamanian economy, covering employment, remuneration, profitability, etc.

53. As to scope, the system covers all workers, regardless of their nationality or organization, who must be paid the specified wage for their work and region. This wage represents the minimum remuneration the worker must be paid for his work.

54. However, it is extremely difficult to assess the coverage achieved by minimum wage legislation. This is readily understandable, bearing in mind that payment of the minimum wage is influenced by a series of factors such as the following: total private-sector employment, private-sector demand for labour, employment structure by branch of economic activity (mainly in the modern sectors), level of skill of the labour force and its availability, level of trade-union membership, income policy, etc.

55. In the case of Panama, in particular, an enormous obstacle has to be added to the above factors: the political and economic crisis that beset the country between 1987 and 1989, and distorted and had considerably influenced the labour market.

56. With these considerations in mind, and in order to obtain more reliable data, estimates were made showing that at the end of 1987 approximately 11 per cent of workers employed in the private sector (approximately 29,500 in number), broken down as follows, received the minimum wage:

(a)	Workers in crop and stock farming, fisheries, forestry and related activities	= 32 per cent
(b)	Personal services	= 19 per cent
(c)	Skilled and unskilled workers in industry and construction	= 15 per cent
(d)	Office workers	= 12 per cent.

57. Although no estimates have been made for 1990, the number of workers receiving the minimum wage has undoubtedly increased.

58. These estimates do not take into account workers in the informal sector who, for obvious reasons, receive the minimum wage or less. In 1987, the number of workers in this sector (own-account workers, employers and family workers) was approximately 231,200, i.e. 36 per cent of the employed population and 30 per cent of the economically active population.

59. MITRABS possesses little information on the remuneration of workers, as distinct from ordinary wages. Nevertheless, information will be provided on remuneration for overtime and work on holidays or days of national mourning established in labour legislation, together with some examples of bonuses and extra payments established by agreement.

60. As regards overtime, article 31 of the Labour Code establishes a maximum working day of eight hours during daytime, seven hours at night and seven and a half hours for mixed day-and-night work.

61. Article 33 stipulates the extra payments due when the above limits are exceeded, the extra time worked being regarded as overtime. In this case, time and a quarter is paid when the overtime is worked during the day, and time and half when it is worked at night (after 6 p.m.) or when it represents a extension of a mixed day beginning during daytime. Time and three quarter is paid when the overtime is an extension of night work or of a mixed working day, regardless of whether it began during the day or night. In all three cases, whenever more than three hours' overtime are worked during a day or more than nine hours during the week, the rate applicable is time and three quarters (Labour Code, art. 36).

62. Notwithstanding the above, Act No. 1 of 17 March 1986 establishes a single overtime rate of time and a quarter that applies to small businesses (10 workers or less in the case of agricultural workers, 15 or less in the case of manufacturing firms and 20 or less in agribusiness). The Act also extends to firms whose entire activity is devoted to exports.

63. If rest days are worked (pursuant to article 41, rest days should preferably be Sundays), time and half is paid. Work on national holidays or days of national mourning is paid at two and half times the normal rate (art. 49).

64. As regards extra payments and bonuses, one of the best-known examples is that contained in the Collective Labour Agreement between the Panamanian Chamber of the Construction Industry (CAPAC) and the National Union of Construction and Allied Workers (SUNTRACS). Copies of volumes I and II of the Agreement, signed on 14 January 1988, and of the special agreement reached on the same subject on 13 February 1990 are enclosed (see annexes 5 and 6).

65. The Agreement not only lays down special working conditions relating to the performance of specific activities but also provides for extra payments when such activities are performed. They are:

(a) Work in high places, excavation work, and work in tunnels and galleries: 15 per cent above the basic wage;

(b) Work with hammers and pneumatic equipment: 6 per cent above the basic wage;

(c) Work during rain: time and a half.

66. The parties to the Agreement have also agreed on minimum levels of output. The relevant table appears in volume II, page 4, of the Agreement (see annex 5).

67. As to the provisions designed to ensure observance of the principle of equal pay for equal work, Panama has ratified the Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal Value (No. 100), by Act No. 48 of 2 February 1967. Accordingly, article 10 of the Labour Code establishes this principle in the following terms:

> "Article 10: The principle of equal pay for equal work is guaranteed. For similar work in the service of the same employer the same wage shall be paid, all other conditions being equal as regards the position or job, hours of work and the worker's efficiency and length of service; in this connection, the 'wage' includes basic pay and extra pay, bonuses, ex gratia payments, commissions, tips and any other payments in cash or kind received by a worker on account of the employment relationship."

68. If this provision is infringed, the worker concerned may initiate legal proceedings to ensure that it is complied with. In this connection, article 145 of the Code reads:

> "Article 145: In cases of violations of the principle of equal pay or in cases of activities in respect of which no minimum wage has been fixed or the remuneration is manifestly inequitable by comparison with the average in the industry or activity concerned, the worker concerned may, by the accelerated procedure, apply for an order fixing the appropriate wage. The wage so fixed shall be effective as from the date of commencement of the order."

69. Effective measures have thus been introduced to ensure compliance with the equal-wage principle. For this reason, in Panama under no circumstances is provision made for different rates of remuneration for men and women. In actual fact, when setting wages, the responsible bodies make no distinction whatsoever based on a particular category. Furthermore, article 63 of the Constitution contains the following provision: "An equal wage or salary shall always be paid for equal work in identical conditions, regardless of who performs it, without distinction as to sex, nationality, age, race, social class or political or religious opinions."

70. Collective contracts between employers and workers contain no special provisions giving rise to any form of discrimination.

71. In order to illustrate changes in levels of remuneration in Panama, annex 7 contains the following statistical tables:

(a) General minimum wages in force in the Republic of Panama, 1960-1990 (hourly rate);

(b) Nominal and actual changes in the minimum wage by branch of economic activity: 1975, 1979, 1983 and 1989;

(c) Nominal and actual changes in the regional minimum wage, 1975, 1979, 1983 and 1989 (1975 = 100);

(d) Changes in the nominal and actual average monthly wage, by sector, 1975-1989;

(e) Retail price index, by group and purchasing power of one balboa (B 1.00 = $1), 1975-1989 (1975 = 100.0);

(f) Nominal and actual changes in hourly wage rates, 1975-1989;

(g) Domestic factor income, 1980-1988 (in millions of balboas) (B 1.00 = $1).

Safe and healthy working conditions

72. The principal laws, administrative regulations, etc. designed to promote and protect the right to safe and healthy working conditions include the following:

(a) The Constitution of the Republic of Panama, article 106, paragraph 6, of which lays down the responsibility of the State for regulating and supervising compliance with conditions relating to health and safety in workplaces and for establishing a national policy on industrial health and medicine;

(b) 1972 Labour Code, Book II, Title I, articles 282 to 290, which establish occupational safety and health standards;

(c) Cabinet Decree No. 68 of 30 March 1970, articles 69, 70 and 71, relating to the elimination of occupational hazards;

(d) Regulations for the elimination of occupational hazards in the construction industry, 1977;

(e) Cabinet Decree No. 384, dated 11 December 1977, regulating the importation, manufacture, mixing and application of pesticides;

(f) The Mineral Resources Code, dated 22 August 1987, articles 113 and 119, relating to safety and preventive measures. 1987 Hydrocarbons Act;

(g) 1947 Health Code, articles 208, 210 and 211;

(h) Cabinet Decree No. 150 of 19 February 1971, relating to harmful noises produced by factories, industries, workshops, commercial premises or any other type of establishment;

(i) Cabinet Decree No. 345, amending articles 3, 4, 5 and 7 of the internal regulations;

(j) Act No. 34 of 26 September 1979, regulating work in the ports of Balboa and Cristóbal;

(k) Act No. 39 of 27 September 1979, regulating work in ports by private firms, agents and port users;

(l) Act No. 14 of 30 January 1967, whereby Panama ratified the ILO Convention concerning Labour Inspection in Industry and Commerce (No. 81) of 1947;

(m) Cabinet Decree No. 40 of 26 February 1971, whereby Panama ratified the Convention concerning the Protection against Accidents of Workers Employed in Loading or Unloading Ships (Revised) (No. 32) of 1932;

(n) Cabinet Decree No. 193 of 4 May 1970, whereby Panama ratified the Convention concerning the Maximum Permissible Weight to be Carried by One Worker (No. 127);

(o) Act No. 49 of 31 January 1963 establishing the National Regulations for the Fire Service (chaps. II-XIV);

(p) Decree No. 21 of 30 November 1981 establishing regulations for the implementation of ILO Convention No. 127 on maximum permissible weight;

(q) Decree No. 15 of 30 June 1982 amending article 1, paragraph (c), of Decree No. 21 of 30 November 1981, relating to the implementation of ILO Convention No. 127;

(r) Manual of operating procedures on ships and for the handling of dangerous cargo, adopted in 1984 by the National Port Authority;

(s) C.E. Decision No. 3-88 of 9 August 1988 approving the General Port Health and Safety Regulations and the regulations of the Port Health and Safety Committees. The purpose of the General Port Health and Safety Regulations is to establish standards and procedures for the prevention of industrial accidents and for occupational health, fire prevention and correct cargo handling, to ensure that port activities are performed safely and efficiently. The regulations of the Port Health and Safety Committees are designed to promote and support activities relating to the prevention of industrial accidents, occupational health, fire prevention and proper handling of dangerous cargoes.

73. It should be mentioned that, in addition to the above, the Government is studying the following draft regulations with a view to their approval:

(a) Draft Health and Safety Regulations;

(b) Occupational Health Bill (new draft);

(c) Draft Regulations on Health and Safety in the Construction Industry;

(d) Draft Regulations for the Safe Use of Pesticides.

74. The following state institutions are responsible for the protection of occupational health, pursuant to the relevant national legislation:

1. Ministry of Labour and Social Welfare

   1.1. Inspection of places of work

   1.2. Health and safety standards

   1.3. Limited field surveys

2. Ministry of Health

   2.1. Inspection of places of work

   2.2. Health and safety standards

   2.3. Limited field surveys

3. Social Security Fund

   3.1. Occupational Safety Department (Executive Department of Economic Services)

      3.1.1. Inspection of places of work for the purpose of classification of firms

      3.1.2. Investigations of occupational accidents and diseases

      3.1.3. General education for employers and workers

      3.1.4. Miscellaneous health and safety standards

   3.2. Occupational health programme

      3.2.1. Inspection of places of work

      3.2.2. Analysis of field surveys

      3.2.3. Time and motion study

      3.2.4. Medical, health and safety standards

      3.2.5. Toxicological study of workers

      3.2.6. Study of factors instrumental in causing accidents and occupational diseases

      3.2.7. Study of absenteeism

      3.2.8. Rehabilitation for work

      3.2.9. Medical study of workers in high-risk occupations

3.2.10. Study of psycho-social factors affecting the working population

3.2.11. Specialized training for workers and employers

4. Other institutions

4.1. Ministry of Education

4.2. Ministry of Trade and Industry

4.3. Ministry of Agricultural Development

4.4. Ministry of Public Works

4.5. Ministry of Planning and Economic Policy

4.6. IRHE (Water Resources and Electrification Institute) - INTEL (National Telecommunications Institute)

4.7. Port Authority

4.8. Municipalities

4.9. Fire Service Safety Office.

75. As regards categories of workers or sectors to which measures to ensure occupational health and safety have not yet fully been applied, we wish to report that in the private sector there are certain shortcomings in this respect, such as the following:

(a) None of the employers' central or sectoral associations possess industrial medicine, health or safety services. This is also true of the employees' sector;

(b) There are no industrial medicine, health and safety services within firms;

(c) The health and safety committees set up in the 1970s have completely disappeared as a result of their ineffectiveness, which was attributable to inadequate follow-up by the competent authorities;

(d) Generally speaking, examination of this issue has shown that workers' organizations have been scarcely more active than employers' organizations, as in collective negotiations they have shown little interest in improvements to the working environment and working conditions or in the prevention of occupational accidents and diseases.

76. Annex 8 contains statistical information on factory inspections by the Environmental and Occupational Safety Department of the Ministry of Labour and Social Welfare, together with statistical data on industrial accidents recorded by the Social Security Fund. The following statistical tables are included:

(a) Table showing inspections carried out at the national level: 1985;

(b) Table showing inspections carried out, according to the department of MITRABS: 1984-1988;

(c) Table 441-1-19: Number of Inspections carried out by the Department of the Environment and Occupational Safety, by branch of economic activity, according to type of inspection: annual, 1984;

(d) Table 441-1-20: Workers covered by inspections carried out by the Department of the Environment and Occupational Safety, by sex, by branch of economic activity, according to type of annual inspection: 1984;

(e) Table 421-101: Temporary disability benefits paid for industrial accidents and occupational diseases in Panama, by kind: 1970-1984;

(f) Table 421-22: Temporary disability benefits and their amount paid for industrial accidents in Panama, by month of occurrence: 1983-1984;

(g) Table 421-21: Temporary disability benefits and their amount paid for industrial accidents in Panama, by province: 1983-1984;

(h) Table 421-20: Temporary disability benefits paid for industrial accidents in Panama, by group of economic activity, by month: 1983-1984;

(i) Table 421-19: Temporary disability benefits paid for industrial accidents in Panama, by group of economic activity, according to province: 1983-1984;

(j) Table 421-18: Occupational disease benefits paid in Panama, by age group, according to cause of disability: 1982;

(k) Table 421-17: Occupational disease benefits paid in Panama, by cause of disability and sex, according to part of body affected: 1982;

(l) Table 421-16: Occupational disease benefits paid in Panama, by sex, according to economic activity: 1982;

(m) Table 421-15: Occupational disease benefits paid in Panama, by cause of disability, according to economic activity, 1982;

(n) Table 421-14: Occupational disease benefits paid in Panama, by economic activity, according to cause of disability, 1982;

(o) Table 421-13: Benefits paid in Panama for accidents to or from work, by type of vehicle, according to part of body injured and sex: 1982;

(p) Table 421-12: Benefits paid in Panama for accidents to or from work, by economic activity, according to type of injury: 1982;

(q) Table 421-11: Benefits paid in Panama for accidents to or from work, by sex, according to type of economic activity: 1982;

(r) Table 421-10: Benefits paid in Panama for accidents to or from work, by day, according to period and time of occurrence: 1982;

(s) Table 421-09: Occupational disease benefits paid in Panama, by age group, according to cause of disability: 1981;

(t) Table 421-08: Occupational disease benefits paid in Panama, by cause of disability, according to economic activity: 1981;

(u) Table 421-07: Occupational disease benefits paid in Panama, by economic activity, according to cause of disability: 1981;

(v) Table 421-06: Occupational disease benefits paid in Panama, by cause of disability and sex, according to part of body affected: 1981;

(w) Table 421-05: Benefits paid in Panama for accidents to or from work, by economic activity, according to type of injury: 1981;

(x) Table 421-04: Benefits paid in Panama for accidents to or from work, by type of vehicle, according to part of body affected and sex: 1981;

(y) Table 421-03: Benefits paid in Panama for accidents to or from work, by sex, according to economic activity: 1981;

(z) Table 421-02: Benefits paid in Panama for accidents to or from work, by day, according to period and time of accident: 1981;

(aa) Table 421-01: Temporary disability benefits paid in Panama for industrial accidents and occupational diseases, by type: 1970-1984;

(bb) Table showing distribution of industrial accidents by year of occurrence: 1970-1983 (August);

(cc) Table showing accidents reported in the Metropolitan Area, by amount of compensation for occupational hazard (preliminary figures, 1985);

(dd) Table showing distribution of industrial accidents, by economic activity: 1970-August 1983;

(ee) Table showing distribution of industrial accidents, by province: 1972-August 1983;

(ff) Table showing distribution of industrial accidents, by district: 1971-August 1983;

(gg) Table showing distribution of industrial accidents, by age group: 1970-1977;

(hh) Table showing distribution of industrial accidents, by sex: 1971-1977;

(ii) Table showing distribution of industrial accidents, by time and period of occurrence: 1971-1977;

(jj) Table showing distribution of industrial accidents, by month of occurrence: 1971-1977;

(kk) Table showing distribution of industrial accidents by part of body affected and by sex;

(ll) Table showing distribution of industrial accidents, by victim's activity: 1970-1977;

(mm) Table showing distribution of industrial accidents, by actual cause: 1971-1977;

(nn) Table showing distribution of industrial accidents, by day of occurrence: 1971-1977;

(oo) Table showing distribution of industrial accidents, by victim's activity and by economic activity: 1971-1977;

(pp) Table showing distribution of accidents, by occupational hazard, according to type of injury caused and economic activity: 1971-1977;

(qq) Table showing industrial accidents, by economic activity and by sex: 1970-1977;

(rr) Table showing distribution of industrial accidents, by economic activity and activity performed: 1971-1977;

(ss) Table showing distribution of industrial accidents, by activity performed by the worker and by cause of accident: 1971-1977;

(tt) Table showing distribution of accidents to or from work by year of occurrence: 1973-1981;

(uu) Table showing distribution of accidents to or from work, by economic activity: 1973-1981;

(vv) Table showing distribution of compensation for occupational risks, by economic activity: 1972-1982;

(ww) Table showing distribution of benefits granted for occupational risks: 1972-1982;

(xx) Table showing distribution of deaths as a result of occupational risks, by economic activity: 1970-1982;

(yy) Table showing distribution of deceased persons by occupational risk, according to cause of death and sex: 1970-1978;

(zz) Table showing distribution of occupational diseases, by economic activity: 1971-1981;

(aaa) Table showing distribution of occupational diseases, by age: 1971-1980;

(bbb) Table showing distribution of occupational diseases, by cause: 1971-1980;

(ccc) Table showing distribution of occupational diseases, by part of body affected: 1971-1980;

(ddd) Table showing inspections carried out by the Occupational Safety Department of MITRABS: 1969-1990.

Equal opportunities of promotion

77. For workers in the private sector, articles 128 (13) and 136 of the Labour Code set out the legal bases for guaranteeing equal opportunities of promotion and filling of vacancies in private undertakings. These provisions read as follows:

> "Article 128: In addition to any special stipulation in the contract, the employer shall have the following obligations: ... (13). To give preference, in conditions of equal efficiency and aptitude, to workers having greater length of service, to Panamanian nationals over non-nationals, and to workers who are members of trade unions over those who are not. This rule shall always apply in the case of permanent or temporary posts or promotion in the undertaking, and shall be interpreted without prejudice to the provisions of a collective agreement; ...
>
> "Article 136: Every worker shall be entitled to promotion within the undertaking. For this purpose, all other conditions as to efficiency and aptitude being equal, regular workers shall be given preference when vacancies occurring in the undertaking are being filled over workers who are not employed by the undertaking.
>
> The provisions of this section shall apply without prejudice to those of article 128 (13)."

78. These two articles are supplemented by collective agreements instituting the machinery to assess workers wishing to apply for a post or vacancy at a higher grade.

79. Where public officials are concerned, at the present time there are no established procedures and criteria for promotion and salary increases, which are dealt with on a discretionary basis by their supervisors.

80. Excluded from the foregoing are teachers and certain professional and technical staff engaged in health activities in public organizations, whose regulations stipulate that merit and length of service determine access to specific higher posts and to salary increases.

81. Promotion is based on competitive examinations, advertised through the media, and organized by the Personnel Office of the Ministry of Education. Candidates are assessed on the basis of their academic qualifications, years of service and merit, by means of a point system, by a panel which selects a short list. This is submitted to the Minister of Education for the purposes of the selection of the most suitable candidate. Promotion of teaching staff is based on years of service, provided that during the holiday period they have met the condition of taking part in vocational development activities (by attending seminars, courses or other activities and missions for the improvement of education).

82. As regards professional and technical staff in the health sector working in government institutions, only a few professional groupings (nurses, X-ray technicians, etc.) make promotion or access to senior posts dependent on competitive examinations which take into account academic qualifications, years of service, professional efficiency and merit, and the physical and moral suitability of candidates. For most of the remaining health-related occupations, the relevant regulations have yet to be framed; this work is to be done in the context of the implementation of a Civil Service and Administrative Career Act.

83. As regards the promotion of professional and technical staff in the health sector and other staff (agricultural science professionals), the criterion used basically tends to be length of service (automatically after so many years of service), while in other professional groupings the criteria also include academic qualifications (professional diplomas and degrees).

84. As regards the principal measures and/or procedures for implementing the right to equality of opportunity for promotion, where both public and private-sector training programmes are concerned, we wish to report that the National Government has constantly made a point of preparing and executing plans for the training and/or development of the country's human resources.

85. Through the Human Resources Development Institute (IFARHU), the Government organizes and develops programmes to ensure appropriate application of technical training and the rational use of the Republic's human resources. The Institute thus directs, coordinates and implements credit programmes, fellowships and educational guidance relating to the management of fellowships for primary, secondary, university and specialized studies and/or training in Panama and abroad.

86. Through the National Vocational Training Institute (INAFORP), a national system has been set up which, in addition to guaranteeing vocational training for workers and contributing to their development in technical terms and as human beings, encourages and organizes jointly with the various undertakings the technical training activities which the latter require.

87. While the Labour Code has no specific provision on the training of private sector workers, article 160 mentions periods during which workers in general may be granted paid leave for study purposes.

> "Article 160: Every worker or employee in the service of the State or of individual employers who is designated to represent his country or its social organizations at congresses, conferences, training activities, seminars or national or international competitions connected with work or sport, approved by the Ministry or Autonomous Institutions concerned, shall continue to receive the wages payable to him during the entire period in which he represents his country.
>
> The wage payable under this article shall not be deducted from the vacation leave pay to which he is entitled.
>
> In the case of representational activity within Panama, the period covered by the above shall not exceed three weeks, or two months in the case of representation abroad."

88. Despite this time limitation on paid leave for study purposes, most undertakings have collective agreements with their workers whereby such paid leave may be for a longer period, of up to two or three years. We regret that we are unable to provide a copy of these collective agreements, but it is impossible for us to make photocopies of the enormous number of pages they contain.

89. As regards public officials, the Government, in Decree No. 82 of 27 November 1967, set up the National Development and Training Programme for Public Officials under which, in May 1971, it initiated a mass training programme at all levels.

90. In 1973, when the Ministry of Planning and Economic Policy (MIPPE), was created, it was assigned the task of organizing the administration of State-employed personnel, in conformity with the basic principles set out in the Constitution and the law, and establishing training programmes to improve public service in conjunction with the other State agencies.

91. MIPPE includes the Central Training Office, which heads the National Public Administration Training System (SINACAAP); this System is organized through administrative units in the various public-sector institutions, such as the Institutional Training Offices, the Sectoral Committees and others.

92. National training activities for public servants currently take place in the form of courses and seminars (including some on a modular pattern) with an average duration of two weeks, for officials at the administrative, senior, technical and operational levels in the areas of planning, administration, finance and technical and support activities, to enable them to increase their knowledge and improve working techniques, and thus be more efficient in their work and have better opportunities for pursuing a government service career. This type of training is basically aimed at self-improvement.

93. Courses are held at the following levels:

(a) Central Office: aimed basically at middle-level and administrative staff in common areas of public administration;

(b) Regional subprogramme: meets training needs identified in the provinces and directly related to the national Government's programmes at the regional level;

(c) Sectoral subprogramme: meets training needs of the institutions which make up each sector of public administration: communications, energy and transport; banking and finance; trade and industry, and tourism; home affairs; agriculture; health and education;

(d) Institutional subprogramme: training activities within each institution.

94. Courses and seminars are announced through the annual publication of the Training Programme; training is carried out in all SINACAAP bodies, including the Institutional Training Offices and Personnel Offices.

95. Names of candidates to attend training activities are normally put forward by their immediate chiefs on their own initiative on the basis of identified staff training needs, or at the request of the public official himself, in accordance with the requirements laid down for the participants for whom the activity is intended. Participants are required to attend 90 per cent of the course and to do the tests and practical work required of them.

96. Training activities are carried out during the normal working day in the public services and participants are given paid leave for the duration of the activity. If the training activity takes place outside the official's normal place of residence, he is given a transport, food and lodging allowance by the institution in which he works.

97. Panamanian civil servants also have access to fellowships for seminars, workshops, postgraduate courses and master's degree courses. These originate from international offers by various bilateral and multilateral sources to MIPPE, IFARHU and other public institutions which receive offers directly from international organizations, universities and friendly countries.

98. In 1977, Act No. 31 of 2 September 1977 set up the Special Programme for the Vocational Training of Civil Servants, supervised by and under the responsibility of IFARHU; this has enabled public officials to take paid leave of up to three years for postgraduate or specialized studies abroad in various disciplines, so as to increase their scientific and technical expertise in the areas of priority to the State department in which they serve and in the light of our country's development needs.

99. Panama also has training programmes linked to the promotion of officials to higher levels. For this purpose training courses are organized within Panama or arrangements are made for civil servants to take part in activities abroad. These programmes are basically linked to the institutional policies of specific departments (health, education, banking, Customs, electricity and telecommunications services). The public banking institutions, such as the National Bank of Panama and the Savings Bank, organize training courses for newly recruited staff (cashiers and others).

100. It should be emphasized that beneficiaries of training courses and national and international fellowships who complete their studies satisfactorily are guaranteed reinstatement in their posts at the end of their paid study leave. The paid leave does not count towards annual leave; during this period, however, employees who are covered by special legislation (primary-school teachers, secondary-school teachers, etc.) receive the automatic salary increases provided for in the relevant legislation.

101. The same applies to civil servants awarded fellowships abroad within the context of international technical cooperation with Panama.

Rest, leisure, reasonable limitation of working hours and holidays with pay

102. Our country has a resolute labour policy which unequivocally guarantees the weekly rest period of workers, leisure time, a maximum working day of eight hours, the right to paid leave, etc.

103. In this connection, article 66 of the Constitution of the Republic of Panama reads:

> "Article 66: The maximum working day shall be eight hours and the working week up to 48 hours; the maximum duration of night work shall be not more than seven hours and extra remuneration shall be paid for overtime.
>
> The maximum working day may be reduced to six hours for persons over 14 and under 18 years of age. Work is prohibited for persons under 14 years of age and night work is forbidden for persons under 16 years of age, except as prescribed by law. The employment of persons under 14 years of age as domestic servants and work by juveniles and women in unhealthy occupations are likewise prohibited.
>
> In addition to weekly rest, every worker shall be entitled to paid leave.
>
> The law may prescribe paid weekly rest in accordance with the country's economic and social conditions and in a manner advantageous to the workers."

104. The Labour Code reflects these basic standards in its provisions in order to guarantee rest in an organized form. Article 40 of the Code thus establishes that "the weekly day of rest is a worker's right and duty". On the question of Sunday, the Labour Code contains the following provisions in article 41:

> "Article 41: The weekly rest day shall preferably be Sunday. Nevertheless, in any of the cases covered by the following article, employers and workers may agree on a full period of 24 consecutive hours of rest on a day other than Sunday.
>
> When a person works on his rest day, he shall be entitled to a compensatory day off."

105. The labour laws go further in guaranteeing rest since they require undertakings and establishments to close on Sundays and national holidays, clearly specifying which activities are excepted. The relevant text states:

> "Article 42: Undertakings and establishments shall remain closed on Sundays, public holidays or days of national mourning, with the following exceptions:
>
> 1. Public service establishments;
>
> 2. Crop and livestock farms;
>
> 3. Pharmacies, hotels, restaurants and snack bars;
>
> 4. Public amusement and leisure facilities;
>
> 5. Retail foodshops;

6. Commercial establishments situated outside urban areas and operating, on account of their location, as service centres for agricultural areas; and

7. Establishments where, on account of their nature, any interruption of work on such days would cause serious harm to the public interest or public health or to the national economy, provided that prior authorization is obtained from the General Directorate of Labour.

The terms of this article are without prejudice to departments or services which are required to function for technical reasons or for security or maintenance purposes."

106. Similarly, articles 43 to 48 of the Code comprise a number of regulations to guarantee workers' rest.

107. In Panamanian law, rest is not merely a weekly requirement but also covers the period following working hours, and the rest period taken during working hours. The former is referred to in article 39 (3), which requires employers to make provision for a continuous rest period of at least 12 hours between working hours. The latter question is specifically dealt with in the article, which states that "Every employer has an obligation to grant workers the normal period required for them to rest in accordance with the following rules ...". This period may not be less than half an hour nor more than two hours. It should be mentioned that the article in question protects these rights and states, in paragraph 2, that "The hours of work and shifts shall be arranged so as not to cause undue variations in the number of hours set aside for workers' rest, meals and family life".

108. It should also be pointed out that Act No. 5 of 2 March 1982 provides for the paid rest period in specialized construction work in the public interest carried out on sites where it is impossible for the worker to return home regularly. Article 1 reads:

"Article 1: When, because of the location of the construction work, it is impossible for the worker to return to his home and he is compelled to remain at his place of work on Sundays, the undertaking may work to a special schedule and the worker may within a specific period accumulate a maximum of three Sundays or weekly rest days which he may take in full at a later date and which shall be remunerated by the undertaking."

109. The law zealously protects the worker's rest, requiring the employer "to post in a conspicuous place in the establishment, undertaking, workshop, business or office the hours of work, the times of breaks, shifts, weekly rest days and the names of any workers absent on leave". The law also provides that the works rules shall include "the times when workers begin and leave work, the time allowed for meals, and the rest period or periods during the working day" (arts. 128 (10) and 185 (1)). In order to guarantee adequate rest, it is also specified that special premises shall be equipped for workers' rest and recreation (art. 287 (3)).

110. It should be added that, since the present Labour Code was enacted, the trade union organizations have been calling for a bargaining policy to reduce the working week to five days, in order, as they put it, to humanize working relations.

111. Where leave is concerned, current legislation stipulates that "every worker shall be entitled to paid annual leave" (art. 52). In all cases this period shall be 30 days for every eleven continuous months of work. This right cannot be waived, as article 59 of the Code stipulates:

> "Article 59: Annual leave is granted in order that the worker may rest; it may not be waived in exchange for remuneration or compensation."

112. In this context, we consider that the only shortcoming in the law is that it permits the accumulation of leave for two years by agreement between the parties and, in the event of longer accumulation, forbids leave accruing from the excess period; this is obviously a basic infringement of this important right (art. 59). In addition to this legal lacuna, the law does not permit the unilateral postponement of leave. In this regard article 57 states:

> "Article 57: The employer shall give two months' notice of the date by which the worker shall begin his period of leave, taking account as far as possible of the interests of the undertaking and those of the worker. However, only with the authorization of the competent labour officials and the express consent of the worker may the employer fix a period more than three months later than the date on which the worker acquired his leave entitlement."

113. Labour legislation does not permit interruption of leave, article 56 of the Labour Code stating: "The worker's absence on annual leave shall not be subject to interruption. Annual leave may be divided into not more than two equal halves, if this arrangement is permitted by collective agreement, and subject to the worker's consent in each case".

114. Employers are also required to permit members of a family to take their holidays together:

> "Article 58: When two members of the same family are employed in the same undertaking, the employer shall endeavour as far as possible, at the request of either party, to arrange for their annual leave dates to coincide."

115. We would further note that the right to leave is protected in that illness during the leave period is taken into account. Article 55 of the Labour Code could hardly be more eloquent:

> "Article 55: Where a worker has to be hospitalized on account of sickness or accident occurring during his leave, the duration of hospitalization and any subsequent incapacity shall not be deemed part of the annual leave but shall be taken from his accumulated sick leave entitlement referred to in article 200, the date for return to work from the leave being postponed to coincide with the date on which the period of hospitalization comes to an end. For the purposes of this article, notice of hospitalization shall be forwarded to the employer not less than five days after the date of entry into hospital. Any further delay in notifying the employer shall have the effect of postponing the commencement of the benefits of this article to the day following the day on which the notification is given."

116. With regard to overtime or extra days worked, the Labour Code contains the following provisions:

"Article 35: It is unlawful to require a worker to perform overtime work at times or on days when he should not normally be required to work, except in the following cases:

(1) In the event of an accident, catastrophe or imminent danger threatening human life or threatening destruction of the undertaking or work centre or the object, project or job, which is the subject of the contract; in such cases the hours of work may be extended by the time strictly necessary to cope with the consequences of the accident or catastrophe or to prevent it;

(2) If there is a provision in a collective agreement to the effect that all or some of the workers must work overtime, subject to the statutory limits, on condition that the workers concerned accept such obligation in their individual contracts of employment.

This article shall not apply to the normal daily hours of work performed by workers on Sundays, public holidays and days of national mourning if such workers were specially recruited to work on such days or where the work is performed in shifts, in the undertakings referred to in article 42, provided that such work is remunerated at the overtime rates referred to in this code".

117. The restrictions on extra days of overtime work are set out as follows in article 36 of the Labour Code:

"Article 36: The following limits shall apply to overtime work:

(1) Overtime shall be prohibited in the case of work which is of a dangerous or unhealthy nature;

(2) Overtime shall be prohibited in the case of young persons under 16 years of age;

(3) The employer shall be bound to employ a sufficient number of properly manned shifts or work teams to complete the work within the normal working hours respecting the limits laid down in this chapter;

(4) Overtime exceeding three extra hours a day or nine extra hours a week is unlawful.

Where in any circumstances a worker performs overtime in excess of the limits laid down in paragraph (4) of this article, such extra overtime shall be remunerated at the rate of time-and-three-quarters, and the employer shall be liable to the appropriate penalties".

118. Lastly, article 37 of the Labour Code stipulates that "wage payments shall include payment for overtime worked up to five working days immediately preceding the relevant pay day".

ARTICLE 8: TRADE UNION RIGHTS

119. With regard to the right to join trade unions freely, our country maintains a resolute labour policy, particularly since the Constitution provides as follows:

> "Article 64: The right of employers, employees and professionals of all classes to organize for the purposes of their economic and social activity is hereby recognized.
>
> The Executive shall have a maximum period of 30 days to approve or reject registration of a trade union.
>
> The law shall regulate all matters pertaining to Executive recognition of trade unions, whose legal personality shall be determined by registration.
>
> The Executive may dissolve a trade union only when it permanently deviates from its purposes and a competent court so declares in a final judgement.
>
> The executive committees of such associations shall be exclusively composed of Panamanians".

120. Trade unionism in our country is also based on the provisions of the Labour Code, article 334 of which states that it is a matter of public interest to establish trade unions as an effective means of contributing to the economic support and development of the country, the culture of the people and Panamanian democracy.

121. In conformity with article 379 of the Code, the State of Panama, through the Ministry of Labour and Social Welfare, has an obligation to encourage the establishment of trade unions in branches of activity or places where they do not exist, respecting the workers' right to form the types and number of trade unions they deem appropriate.

122. The Ministry is also required to promote membership by workers of existing trade unions, allowing workers full freedom to join the union of their choice.

123. These rules unequivocally reflect the principles which underlie the protection of trade unionism and the State's policy of declaring the establishment of trade unions to be in the public interest. It should be added that, under this system of association, trade unions may be established without need for authorization. Similarly, there is no restriction on membership of the union of one's choice, and there is no discrimination or distinction against workers on grounds of their political ideas, social class, ideological tendencies, religious beliefs, sex or nationality. Furthermore, independent workers may organize on a trade union basis.

124. It should be noted that in Panama it is extremely easy to organize a trade union since only 50 members are required for it to constitute a legal entity.

125. Workers may organize trade unions for the study, improvement, protection and defence of their common economic and social interests (Labour Code, art. 341). These unions may be of four types, as provided for in article 342 of the Code, namely:

1. Occupational, composed of persons in the same occupation, trade or specialized activity.

2. Works, composed of persons in different occupations, trades or specialized activities, working in the same undertaking;

3. Industrial, composed of persons in different occupations, trades or specialized activities working in two or more undertakings of the same kind;

4. Mixed, composed of persons in different occupations, trades or specialized activities, working in different or unrelated undertakings. Such trade unions may be established only in a given town, district, province or region, where the number of workers in the occupation is less than 50.

126. The right to free choice of union membership is supplemented by the right to form federations or confederations. As article 349 of the Labour Code states, "Two or more trade unions may form federations, and two or more federations may form confederations or central congresses, which shall be regulated by the provisions of this title in so far as they are applicable. Occupational trade unions, industrial trade unions and trade unions for professionals or for self-employed persons established at the national or provincial level and not forming part of any federation may join a confederation or central congress".

127. In Panama, trade unions may exercise the right to strike once they have exhausted the reconcilation procedure. This right may be exercised without restriction in the case of employees who do not work in public service activities. Arbitration is obligatory in such cases.

128. Annex 10 contains statistical data on the number of strikes, workers affected, working hours lost and social organizations involved, by branch of economic activity, in 1986, 1987 and 1988.

ARTICLE 9: RIGHT TO SOCIAL SECURITY

129. The general Panamanian social security system is governed by Legislative Decree No. 14 of 1954, as amended and supplemented, by Cabinet Decree No. 68 of 1970, which regulates the compulsory coverage of occupational risks and by Act No. 16 of 1975, regulating the Supplementary Social Benefits Fund compulsory for all civil servants.

130. The social security system offers a whole range of benefits, both in cash and in kind, for the insured person and his family, making the Social Security Fund one of the most advanced social security institutions in Latin America.

131. At the present time it covers 425,000 active contributing members, 77,000 pensioners and 809,000 dependants, making a total of 1,311,000 persons protected by social security.

132. The table in annex 11 on the breakdown of expenditure by the Social Security Fund, by risk and purpose, for the years 1986-1989, summarizes all the benefits available under the Panamanian social security system. An active member is entitled, in the event of sickness, to the following benefits:

(a) Medical and surgical treatment, pharmaceuticals, dental treatment and hospitalization;

(b) Temporary disablement benefit when the insured person is unable to work because of sickness.

133. The Fund grants benefits to the insured person's beneficiaries as listed below for medical, surgical and dental treatment, pharmaceuticals and hospitalization. This entitlement is granted to: the spouse, the insured person's children up to the age of 18 or up to the age of 25 if they are students, and disabled persons during the period of disability; the insured person's dependent mother; the father, if he is disabled or aged over 60 and is also a dependant. If there is no wife, a woman living in a free union with the insured person is entitled to these benefits, provided that there is no legal impediment to marriage and that the period of cohabitation has been at least nine months. Evidence of this must be furnished to the Fund.

134. As far as these benefits are concerned, a disabled husband or male partner will have the same entitlements as a wife or female partner.

135. Insured persons are entitled to apply for coverage for medical treatment and hospitalization as soon as they begin working for an employer who is affiliated to the compulsory social security system.

136. If the insured person has already paid 180 contributions to the Social Security Fund, this entitlement will be maintained during the 12 months following the date on which he stopped working.

137. When sickness causes disablement, and provided that the worker has paid contributions for at least six months during the nine calendar months prior to the disablement, he will be entitled to a daily sickness benefit equivalent to 70 per cent of his average daily wage over the last two months duly credited to the Individual Account.

138. The Fund will not pay the benefit referred to in the previous paragraph for as long as the employer's obligation to pay the worker in accordance with the relevant provisions of the Administrative Code continues. Neither will the benefit be paid in cases where the insured person has wilfully caused the injury or sickness, when it is caused by a brawl in which he voluntarily takes part or when it is caused by the excessive use of alcohol or by drug addiction.

139. The sickness benefit will be suspended if the insured person refuses to follow, fails to conform to or abandons the treatment prescribed or if, despite having been ordered to rest, he is discovered to have been working.

140. Maternity: Insured women are entitled, during pregnancy, childbirth and the post-natal period, to appropriate prenatal and obstetrical treatment.

141. Insured women who have paid a minimum of 9 monthly contributions in the 12 months prior to the seventh month of pregnancy receive a maternity rest benefit which will be paid during the 6 weeks prior to and the 8 weeks following childbirth. The amount of monthly benefit will be equal to the average weekly wage out of which contributions have been paid during the previous nine months.

142. The wife of an insured person is entitled to obstetrical treatment under the conditions set out in the Regulations concerning Medical Benefits.

143. Disability: For the purposes of this insurance, an insured person is considered to be disabled if, as a result of physical or mental sickness or disorder, he is unable to obtain, by means of work proportionate to his strength, ability and qualifications, remuneration equivalent to at least one third of the remuneration he normally received before the disability occurred or of the remuneration normally earned in the same region by a healthy worker of the same sex and of similar ability and qualifications.

144. An insured person who meets the following requirements will be entitled to a disability pension:

(a) He must be declared disabled by the Social Security Benefits Commission on the basis of a report by the competent Medical Commission and any other examinations and tests it may deem necessary;

(b) He must have paid a minimum of 36 monthly contributions at the time of commencement of the disability;

(c) He must have a payments record of not less than 0.5 during the three calendar years prior to the commencement of the disability, or during the period of membership if affiliation to the Fund occurred within those three calendar years.

145. If the insured person has paid a minimum of 180 contributions at the time of commencement of the disability, the payment record requirement will be waived.

146. A disability pension will not be granted to an insured person who, despite fulfilling the requirements set out in the previous article, is in one of the following situations:

(a) Disability occurred because of, or as a result of, an industrial accident or occupational disease;

(b) The disability was caused wilfully by the insured person or was the consequence of an offence for whose perpetration the insured person was responsible.

147. Payment of a disability pension will begin as from the date on which the disability is reported. When the beneficiary is in receipt of a sickness benefit, payment of the disability pension will begin when entitlement to the sickness benefit ceases.

148. The disability pension will be granted initially on a provisional basis for a period of up to two years. During this period, the Fund may at any time order review of incapacity, ex officio or at the request of the person concerned, in order to ascertain whether incapacity has lessened or increased.

149. If incapacity continues after the initial period has elapsed, the pension will become permanent. However, a review of incapacity may be carried whenever there is reason to believe that there has been a change in the essential conditions which led to the insured person being classified as disabled.

150. The disability pension will be for life with effect from the minimum age set for entitlement to the old age pension.

151. Old age: The purpose of the old age pension is to replace, within certain limits, the wage or salary which an insured person forgoes on retiring from working life.

152. In order to be eligible for the old age pension, it is necessary:

(a) To have reached the age of 55 (women) or 60 (men);

(b) To have paid at least 180 monthly contributions.

153. Persons who joined the Social Insurance Fund before 1 July 1942 are entitled to receive the old age pension, provided they have paid at least 120 contributions.

154. Early retirement: An early-retirement pension scheme has been established for insured persons who have paid at least 180 monthly contributions.

155. An early-retirement pension may be granted to men who are at least 55 years of age or to women who are at least 50 years of age.

156. The amount of the early-retirement pension will be calculated on an actuarial basis, so as to ensure that it does not give rise to additional expenditure.

EARLY RETIREMENT AGE

Men	Women	Reduction factor
55	50	.8231
56	51	.8524
57	52	.8844
58	53	.9194
59	54	.9578

157. The amount of the pension resulting from the above-mentioned calculation will be the definitive basis for payments to be made by the Social Security Fund to pensioners who take early retirement.

158. Every five years the Social Security Fund will review the value of the reduction factors on the basis of the most recent mortality rate for the population of Panama.

159. Death: When the death of the insured person is non-occupational in origin, there will be entitlement to survivors' pensions in the following cases:

(a) When, at the time of death, the insured person would have fulfilled the conditions relating to time and number of contributions required for entitlement to a disability pension;

(b) When, at the time of death, the insured person would have been entitled to an old age pension if he had then reached the minimum age for entitlement to an old age pension.

160. Survivors' pensions are also payable on the death of a pensioner whose disability was non-occupational in origin or on the death of an old age pensioner.

161. The widow of a deceased insured person or pensioner is entitled to a widow's pension. If there is no widow, entitlement will devolve upon a woman who was living with the person in a free union, provided that there was no legal impediment to marriage and that the period of cohabitation had begun at least five years before the death of the insured person or before the grant of the pension in the case of a pensioner. The only acceptable proof of cohabitation is a declaration made by the insured person in accordance with the rules established for that purpose by the Fund. If the partner is pregnant at the time of the death of the insured person or pensioner, or if they have children in common, the requirement of a prior declaration by the insured person will be waived.

162. A disabled widower will have the same entitlements as a widow provided that he was financially dependent on the deceased insured woman or pensioner.

163. The widow's pension is equivalent to 50 per cent of the disability or old age pension received by the deceased or of the pension to which he would have been entitled at the time of death, excluding any family allowances.

164. It will be payable for a period of five years with effect from the date of death, but if at the end of that time the widow is disabled, in accordance with the regulations laid down by the Fund, or has reached the age of 55 or has as dependants children of the deceased man who are entitled to an orphan's pension, the widow's pension will continue to be paid for life in the first two cases and until the youngest child ceases to receive the orphan's pension in the latter case.

165. Payment of the widow's pension will be discontinued if the widow remarries or lives in proven concubinage. In the first case, the Fund will pay the widow a lump sum equivalent to up to one year of her pension or for the period outstanding in respect of receipt of her pension, if it is less than 12 months, whereupon all her rights will be extinguished.

166. Each child of the deceased insured person or pensioner will be entitled to an orphan's pension until he reaches the age of 14 or for the duration of disability, in the case of disabled children. If the children are students in State or State-recognized schools, the pension will be paid up to the age of 18.

167. The pension of each orphan will be equal to 20 per cent of the disability or old age pension, excluding any family allowances received by the deceased, or to which he would have been entitled at the time of death. If the beneficiaries are orphans on both sides, the pensions will be increased to 50 per cent of the pension of the deceased, which is used as the basis for calculating the survivors' pensions.

168. Occupational risks: Occupational risks mean any accident or sickness to which workers are exposed on account of the work they perform for an employer.

169. For the purposes of this insurance scheme, an occupational accident is any bodily injury or functional disorder sustained by a worker in the performance, in the course or in consequence of his work, whether such disorder is produced by a sudden or violent external cause or an effort made.

170. For the purposes of the occupational risks insurance, any pathological state which becomes apparent suddenly or gradually as a result of the work process or due to the specific conditions in which work is performed shall be considered an occupational disease.

171. Accordingly, the Board of the Social Security Fund will adopt the list of occupational diseases, which may be subsequently supplemented or amended.

172. In the event of an occupational accident or disease, the insured person is entitled to:

(a) The necessary medical, surgical and hospital treatment and the provision of medicines and other therapeutical services;

(b) The regular supply, repair and renovation of prosthetic and orthopaedic appliances whose use is considered necessary by reason of the injury sustained.

173. When, as a result of occupational accident or disease, a worker is temporarily incapacitated for work and accordingly ceases to draw a wage, as long as the incapacity has not been declared permanent, he will be entitled to a daily cash benefit, from the first day of incapacity, equal to his wage during the two first months and thereafter equivalent to 60 per cent of that wage, until the Social Security Fund doctors decide that the worker is able to return to work or state that the treatment is no longer warranted.

174. For the purposes of the occupational risks insurance, partial permanent disability is a disability caused by disorders which are incurable or of unforeseeable duration, and diminish the insured person's ability to work, without producing total permanent incapacity.

175. Total permanent incapacity means incapacity produced by incurable organic or functional disorders, or disorders of unforeseeable duration, which prevent the insured person from performing any kind of gainful work.

176. An insured person with a 35 per cent or less permanent incapacity will be entitled to payment, in lieu of a pension, of a lump sum equivalent to three years of pension payments.

177. Pensions for reduced work capacity in excess of 35 per cent will be paid in the form of monthly benefits.

178. When an industrial accident or occupational disease causes the death of an insured person, pension entitlements will be as follows. For widows, there will be a life pension equivalent to 25 per cent of the earnings of the deceased. If she is the sole beneficiary or is an invalid, the amount of the pension will be increased to approximately 30 per cent.

179. If there is no widow, a woman who was living with the worker in a free union will be entitled to a pension, provided that there was no legal impediment to marriage and that cohabitation had begun prior to the date on which the accident or disease occurred. The declaration made by the worker in the manner determined by the social security scheme in its regulations will be accepted as proof of this situation. If the partner was pregnant at the time of the worker's death or if they had had children in common, the requirement concerning the prior declaration by the worker will be waived.

180. A disabled or sexagenarian widower of a female worker who died as a result of an industrial accident or occupational disease will have the same entitlements as those relating to a widow's pension, in accordance with Cabinet Decree No. 68 of 1970.

181. The payment of a pension to a widow who remarries or lives in proven concubinage will be discontinued. In the first case, the Fund will pay the widow, in lieu of the pension, a lump sum equivalent to one year's pension payments.

182. Children: A pension up to the age of 18, or for life if they are disabled, in the following amounts: 15 per cent if there is only one child; 25 per cent if there are two; 35 per cent if there are three; and 40 per cent if there are four or more.

183. If, from the outset, there is no eligible beneficiary as indicated above, the children's pension will be equivalent to 20 per cent of the wage, if there is one child, or 15 per cent for each child if there are two or more.

184. Mothers: Mothers are eligible to receive a pension equivalent to 20 per cent of the wage for 10 years; the pension will amount to 30 per cent of the wage if there are no children who are beneficiaries as indicated above.

185. Fathers: A pension equivalent to 10 per cent of the wage is payable for 10 years if he is disabled or over the age of 60.

186. Brothers: Pensions will be paid until the age of 18, or for life if they are disabled, in the same conditions as for the children of the insured person if they were financially dependent on him. If there is no father who is a beneficiary as indicated above, the pension payable to the brothers of the insured person will increase in the same proportion as that stated in paragraph 183.

187. Other beneficiaries: A pension equivalent to 10 per cent of the wage will be paid for six years for sexagenarian or incapacitated ascendants and relatives up to and including the third degree who were economically dependent on the insured person; the total amount of the pensions under this heading may not exceed 30 per cent of the worker's wage.

188. Unemployment benefits: As indicated in the outline of the arrangements concerning sickness, medical benefits are provided only in case of voluntary retirement during the three months after leaving work, provided that the insured person has already paid 180 contributions to the Social Insurance Fund. This entitlement will be maintained during the 12 months following retirement.

189. Family allowances: Although this question has already been broached in connection with sickness and maternity, and with disability and old age, the current legislation on the Social Security Fund makes provision for benefits in cash and in kind for the relatives of the insured person.

190. With regard to medical benefits, including treatment and hospitalization, reference should be made to the information given concerning sickness.

191. Persons in receipt of an old age or disability pension will, in addition, receive a family allowance equal to:

(a) Twenty balboas (B 20) if the pensioner has a spouse or if the husband of a female beneficiary is disabled;

(b) B 10 for each child under the age of 14 or under the age of 18 in the case of a student or of any age if he is disabled and financially dependent on the beneficiary.

192. In no circumstance may the total family allowance exceed B 100.

193. Pensioners who have taken early retirement will begin to receive the family allowance to which they are entitled with effect from the date on which they reach the normal retirement age.

194. The present Government met the Board of the Social Security Fund on 5 January 1990 and found the situation of the Fund to be highly precarious as regards both its financing and resources.

195. There was merely an inventory of medicines worth a total of B 3,800,000 of which B 430,000 consisted of medicines that were past the expiry date or damaged.

196. There was a shortage of surgical equipment in hospitals and polyclinics, and such equipment as was found was mostly in an unacceptable condition; in many cases, in fact, the condition of the equipment was so poor that it could not be used, thus preventing staff from performing their work efficiently.

197. The integration of the health services, begun in 1972, has been a contributory factor in worsening the deficit of the sickness and maternity programme, no plans having been made for the equitable participation of the institutions concerned. In 1989, for example, budgetary commitments for the integrated health systems stood at B 80,029,807, with B 59,893,017 earmarked

for the Social Security Fund and B 20,136,790 for the Ministry of Health. There was thus a marked imbalance in the funds earmarked for health care. With regard to cash payments made by the old age, disability and death programme, its actuarial deficit may be said to have increased in recent years to the amount of B 860 million for the following reasons:

(a) The decline in income from contributions as a result of the slump in economic activity and increased unemployment in Panama;

(b) The increase in the number of applications for pensions, mainly early retirement pensions;

(c) The abolition of the second part of the thirteenth month as a contributory source of funding for the programme;

(d) The financial setback to the Collective Housing Programme.

198. These are the main factors and difficulties which have substantially affected the progress of social security in our country. It is accordingly necessary to adopt a number of measures, both legal and administrative, including some which will not be very popular, in order to ensure the financial security of the Fund, or at least prevent its further deterioration.

ARTICLE 10: PROTECTION OF THE FAMILY, MOTHERS AND CHILDREN

199. The family is the fundamental unit of society and is protected by the Constitution, more particularly under Chapter II, entitled "The Family", articles 52 to 59.

200. These provisions protect marriage, mothers and also the family itself. They also safeguard the physical and mental health and moral well-being of minor children, and provide for support, health, education and social security and welfare.

201. The following are the provisions of the articles in question:

> "Article 52: The State protects marriage and the family. The law shall determine matters pertaining to civil status. The State shall protect the physical and mental health and moral well-being of minors, and shall guarantee their right to support, health, education, and social security and welfare. The right to such protection shall also apply in the case of the elderly and the disabled.
>
> "Article 53: Marriage is the legal basis of the family, is founded on the equal rights of the spouses and may be dissolved in accordance with the law.
>
> "Article 54: A de facto union between persons who are legally competent to contract marriage and which is maintained for five consecutive years in an exclusive and stable relationship shall have all the effects of civil marriage.

"To this end, it shall be sufficient for the parties concerned to make a joint application to the Civil Registry to record the de facto marriage; the application may be made through a justice of the peace. When such an application has not been made, the marriage may be proved for the purposes of a claim by one of the spouses, or another interested party in connection with the rights thereof, under the procedures established by law. Nevertheless, if the declaration is contrary to the facts, registration may be opposed, or challenged after it has been made by the Office of the Government Attorney, in the interests of morality and the law or by third parties who assert rights likely to be affected by the registration.

"Article 55. Patria potestas (parental authority) means the rights and duties of parents in regard to their children.

"Parents are under an obligation to support, educate and protect their children so as to ensure a proper upbringing and suitable physical and mental development; children are under an obligation to respect and assist their parents.

"The law shall regulate the exercise of parental authority in keeping with the interests of society and the welfare of the children.

"Article 56. Parents shall have the same duties towards children born out of wedlock as towards children born in wedlock. All such children are equal before the law and have the same rights of inheritance in intestate succession. The law shall recognize the rights of children who are under age or handicapped and of destitute parents in testate succession.

"Article 57. The law shall regulate investigation of paternity. Any classification of the kind of filiation is hereby abolished. No statement of any kind shall be made establishing differences in birth or in the civil status of the parents in registration records or in any attestation, baptismal record or certificate referring to filiation.

"The father of a son or daughter born before the entry into force of this Constitution shall be entitled to protect him or her under the provisions of this article by rectifying any record or attestation in which such a classification has been made in respect of the son or daughter. The consent of the mother is not required for this purpose. If the son or daughter is of full age, he or she must give his or her consent.

"Anyone legally affected by acts of simulated paternity may oppose this measure. The law shall establish the procedure.

"Article 58. The State shall work for the social and financial improvement of the family unit and shall organize the family's patrimony by determing the nature and amount of the requisite assets and property, on the basis that they are inalienable and not liable to confiscation.

"Article 59. The State shall establish a family protection agency for the following purposes:

(1) To foster responsible parenthood through family education;

(2) To institutionalize the education of infants at special centres to meet the needs of infants when the parents or guardians so request;

(3) To protect minors and the elderly, and look after and provide for the social rehabilitation of the abandoned, the unprotected, those in moral danger or those with behavioural difficulties.

"The law shall organize and regulate the functioning of special courts with jurisdiction over minors that shall, inter alia, hear matters pertaining to investigation of paternity, family desertion and problems of juvenile behaviour".

202. Generally speaking, the guarantees arising out of marriage are set forth in the Constitution and the Civil Code.

203. Article 53 of the Constitution states that marriage is the legal basis of the family, is founded on the equal rights of the spouses and may be dissolved by law.

204. These guarantees are manifested in the rights and duties everyone acquires and incurs by joining in matrimony. This is governed by the Civil Code in part VI, "Obligations and rights between spouses", of chapter I, "General rules", of Book II, "Concerning Persons".

205. In the Civil Code, article 110 states that the spouses are under an obligation to live together, to remain faithful to each other, and to respect and protect each other. Article 111 stipulates that the husband is under an obligation to provide for the cost of support of the family and the wife shall contribute to such costs in proportion to her financial capacity. Article 112 lays down the duty of the husband and wife to live in the conjugal home and the right of each spouse to be admitted to the home.

206. Panamanian legislation contains no provision for any kind of housing allowance or subsidy to permit or facilitate the establishment of a family.

207. The National Directorate for Children and the Family (DINNFA) was set up under Decision No. 32 of 5 November 1982 to protect and strengthen the family as an entity in Panama. Various institutions subsidized by the State through DINNFA have the task of protecting minors in an irregular situation and the very old. There are also Child Guidance Centres (COIFs), which are technically regulated and supervised by the Ministry of Education but are administered by DINNFA, municipal authorities and private individuals.

208. Protection of mothers: By means of Act No. 40 of 2 February 1967, Panama ratified the ILO Maternity Protection Convention of 1919 (No. 3), and domestic legislation accordingly contains specific provisions on this matter.

209. In this context, the Constitution, in article 52, sets forth the State's obligation to protect mothers. This provision is reinforced by article 105 of the Labour Code, which states that "maternity protection for working women shall be a duty of the State".

210. At the same time, the Constitution, elaborating upon its provisions for the protection of mothers, establishes "maternity rights" for all working women, both in the public and in the private sector (art. 68). The article reads as follows:

> "Article 68: Protection shall be afforded for working mothers. A working woman may not be separated from public or private employment because she is pregnant. For a minimum of six weeks preceding and eight weeks following childbirth, she shall be entitled to compulsory leave on full pay, and shall retain her employment and all rights under her contract. Upon resumption of work, a working mother may not be dismissed for one year, except in special cases prescribed by the law, which shall also regulate the special working conditions of expectant mothers."

211. In this regard, articles 105-116 of the first section of chapter II of Part III of Book I of the Labour Code contain provisions relating to maternity protection for working women without any discrimination whatsoever.

212. In addition to the provisions of article 105, article 106 of the Labour Code stipulates that an expectant mother working in the private sector may be dismissed from her employment only for valid reasons and with the prior authorization of the judicial authorities.

213. Article 107 provides that every expectant mother shall be entitled to compulsory maternity leave on full pay during the six weeks preceding and the eight weeks following childbirth. This period of leave shall not be less than 14 weeks, but in the event of delayed childbirth, a working woman shall be entitled to paid leave for the eight weeks following childbirth. Employers must make good the difference between the maternity allowance paid by the Social Security Fund and the pay to which the expectant mother is entitled under this article. Where the Social Security Fund is not liable to pay a maternity allowance, the obligation laid down in this article shall be incumbent entirely on the employer.

214. It should be pointed out that women working in the public sector, like women working in the private sector, enjoy maternity protection. Under article 68 of the Constitution, referred to above, they may not be separated from public employment, and for a minimum of six weeks preceding and eight weeks following childbirth, they are entitled to compulsory leave on full pay, retaining their employment and all rights under their contracts. Upon resumption of work, working mothers may not be dismissed for one year. Social security legislation includes other measures for the protection of mothers.

215. Working mothers are also protected under the Social Security Fund Organization Act. The Fund was set up under Decree-Law No. 14 of 27 August 1954, and articles 43, 44, 44-A and 44-B of the Act emphasize that women should benefit from and enjoy the rights granted by the Act.

216. In regard to protection and prenatal and post-natal care, a woman receives the benefits provided by the Social Security Fund to her as a mother, regardless of her status.

217. The Social Security Fund Organization Act affords maternity protection, article 43 of the Act reading:

> "Article 43: Participants shall be entitled during pregnancy, childbirth and the post-natal period to the necessary prenatal, post-natal and obstetric care, regardless of benefits to which they are entitled under article 39 in the event of sickness. For the purposes of entitlement to maternity benefits, the participant must be a contributor and must have paid at least four monthly contributions in the eight months preceding her claim."

218. The following benefits are offered by the Social Security Fund:

(a) Medical and surgical care, pharmaceuticals, dental treatment and hospitalization, which will be provided by institutions or bodies or persons engaged by the Social Security Fund;

(b) Protection and special care for working mothers, including leave with pay or social security benefits and guarantees against dismissal for a reasonable period before and after childbirth. Article 44 of the Social Security Fund Organization Act, which sets out one of the special maternity benefits for working mothers, reads as follows:

> "Participants with a minimum of nine monthly contributions in the twelve months preceding the seventh month of pregnancy shall be entitled to a maternity leave allowance, which shall be paid for the six weeks preceding and the eight weeks following childbirth. The amount of the weekly allowance shall be the average weekly wage on the basis of which contributions have been paid over the last nine months."

219. It is not possible to obtain information on special maternity protection for mothers working on own account, in agriculture and in small-scale industry.

220. The Social Security Fund Organization Act contains a provision designed to help children and mothers in the event of the death or absence of the husband. Article 56-A provides for a survivor's pension payable to the widow and the children.

221. Under article 56-B, the survivor's pension is payable to children up to 18 years of age while they are studying either in State or State-recognized schools or colleges. The amount is 10 balboas for each child under 14 years of age.

222. Protection of children and young people: The Panamanian Constitution establishes in article 52 that the State shall "protect the physical and mental health and moral well-being of minors, and shall guarantee their right to support, health, education, and social security and welfare".

223. This was the background to the establishment of DINNFA within the Ministry of Labour and Social Welfare, whose task it is to adopt the necessary measures for the protection and welfare of families, orphaned or abandoned children and other persons without financial means or with a diminished capacity for work.

224. The special measures to care for juveniles separated from their mothers or deprived of a family, children with physical, mental or social handicaps and delinquent minors consist of the establishment of homes which DINNFA subsidizes by contributing to the costs of admitting socially disadvantaged juveniles. It also supplies specialist staff who offer opportunities for guidance, training, organization and educational and cultural activities.

225. The task of these homes is to provide the education, support and protection the children need. The following homes are to be found, both in the metropolitan area and in the provinces: Hogar Santa Isabel, Hogar Medalla Milagrosa, Hoga San Francisco de Asís, Hogar de la Infancia, Hogar San José de Malambo, Ciudad del Niño and Hogar de la Capital.

226. There are also "surrogate homes", namely, homes in which children are placed with families whose task it is to provide affection, support and full care for the child as a member of the family. DINNFA provides such homes with a monthly subsidy for the care of children in an irregular situation.

227. Other institutional measures have been taken for the protection of children and adolescents, such as:

(a) Decree-Law No. 36 of 22 September 1966, establishing the Ciudad del Niño de Panama, which provides a home and vocational training for neglected children;

(b) Decree No. 155 of 25 April 1958, establishing the National Commission for the Protection of Minors;

(c) Act No. 27 of 30 January 1961, amending Act. No. 53 of 1951, which established the Panamanian Institute for Special Rehabilitation;

(d) Decision No. 632-82 of 19 February 1984, granting legal personality to the Foundation for the Handicapped;

(e) Decree-Law No. 23 of 21 July 1980, establishing SOS Juvenile Centres for young delinquents, for whom, by order of the State, Act. No. 19 of February 1951 established the Juvenile Courts. The purpose of this Act is to arrange for the requisite care and guidance for the welfare of all juveniles, in the interests of the State;

(f) Act No. 1 of January 1983, establishing the Arturo Miró Juvenile Rehabilitation Centre;

(g) Act No. 24 of 22 October 1984, establishing the juvenile courts in the central provinces.

228. Article 66 of the Constitution prohibits work by persons under 16 years of age, except in the cases specified by law. Work is also prohibited for persons under 14 years of age as domestic servants and work by minors and women in unhealthy occupations.

229. Article 117 of the Labour Code stipulates that work is prohibited for children under 14 years of age and also for children under 15 years of age who have not completed their primary education.

230. As to the regulations concerning night work, article 120 of the Labour Code prohibits work by young persons under 18 years of age between 6 p.m. and 8 a.m.

231. The Labour Code stipulates in article 125 that an employer who infringes the provisions of the chapter in question, which relates to the protection of minors, shall be liable to a fine, payable to the Treasury of between 50 and 700 balboas imposed by the labour administration authority or the labour courts.

232. Article 112 of the Labour Code specifies the kinds of work in which young persons should not be employed:

(a) Employment in clubs, canteens and other places which retail alcoholic beverages;

(b) Transport of passengers and goods by road, rail, air, inland waterways and work on docksides, wharves and warehouses;

(c) Employment connected with electric power generation plant, transformers and transmission lines;

(d) Handling of explosive or inflammable substances;

(e) Underground work in mines, quarries, tunnels or sewers;

(f) Handling of substances, equipment or devices exposing workers to the effects of radioactivity.

233. It is stipulated that children between 12 and 15 years of age may be employed on farms only in light work outside school hours; that young persons under 18 years of age are prohibited from working at night between 6 p.m. and 8 a.m., and working overtime or on Sundays, public holidays or days of national mourning; that contracts for the employment of young persons under 18 years of age must include the father or guardian as a party to the contract, failing which a contract signed directly with the young person requires the approval of the labour administration authority; that the young person's school attendance requirements must be borne in mind in fixing the daily hours of work; and that a child over 12 years of age is allowed to work as a domestic employee only with the authorization of the Ministry of Labour and Social Welfare, but the child must be sent to an educational establishment.

234. As to the number of minors in employment in recent years, the Ministry of Labour and Social Welfare has data up to the year 1989.

235. In 1984 the National Inspectorate of Labour granted a total of 346 work permits for minors, comprising 234 for males and 112 for females.

236. Annex 12 contains the following statistical tables for subsequent years:

(a) Work permits granted by the Ministry to minors: 1985-1988;

(b) Work permits granted by the Ministry to minors: 1988 and 1989.

ARTICLE 12: THE RIGHT TO PHYSICAL AND MENTAL HEALTH

237. Chapter 6 of Part III of the Constitution contains specific provisions setting forth the right of all to physical and mental health and stipulating that it is an essential function of the State to watch over the health of the population.

238. In this regard, articles 105, 106, 107, 109, 111 and 112 of the Constitution read as follows:

"Article 105: It shall be the essential function of the State to watch over the health of the population of the Republic. The individual, as part of the community, is entitled to promotion, protection, preservation, restoration and recovery of his health, and is under an obligation to preserve it, health being regarded as complete physical, mental and social well-being.

"Article 106: In health matters, it is the prime responsibility of the State to develop the following activities in terms of comprehensive prevention, cure and rehabilitation:

(1) To develop a national food and nutrition policy to ensure optimum nutritional conditions for the entire population by promoting the supply, consumption and proper biological utilization of adequate food;

(2) To train individuals and social groups by education programmes on individual and collective rights and duties in regard to personal and environmental health;

(3) To protect the health of mothers, children and adolescents by guaranteeing special care in the course of gestation, lactation, growth and development during childhood and adolescence;

(4) To combat communicable diseases by means of environmental sanitation, developing the supply of drinking-water and adopting measures for individual and collective immunization, disease, prevention and treatment for the entire population;

(5) To create, in accordance with the needs of each region, establishments for comprehensive health services and the supply of medicines for the entire population. Such health services and medicines shall be supplied free of charge to persons without financial means;

(6) To regulate and monitor compliance with the health and safety conditions to be fulfilled at places of work and to establish a national policy on industrial hygiene and medicine.

"Article 107: The State shall develop a national policy to promote the production, supply, availability, quality and control of medicines for the whole of the population of the country."

"Article 109: Every individual is entitled to security in his financial means of existence in the event of incapacity to work or to obtain remunerated employment. Social security benefits shall be granted and administered by autonomous agencies and shall cover cases of sickness, maternity, disability, family allowances, old age, widowhood, orphanhood, compulsory lay-offs, occupational accidents and diseases and all other contingencies covered by social welfare and security. The law shall provide for the establishment of such services, as needs require.

"The State shall establish social assistance and social welfare institutions. Their fundamental tasks shall be the economic and social rehabilitation of dependent groups and those without financial means, and the care of the mentally defective, the chronically ill, disabled indigents and groups that have not been incorporated into the social security system."

"Article 111: The governmental health-related sectors, including autonomous and semi-autonomous institutions, shall be integrated organizationally and functionally. The law shall regulate this matter.

"Article 112: Communities have the duty and the right to participate in the planning, implementation and evaluation of the various health programmes."

239. Within the Ministry of Health, a number of orders, decisions and decrees have been adopted with the aim of promoting and ensuring the physical and mental well-being of the population. They include:

(a) Decree No. 346 of 4 September 1987, making cases of AIDS in Panama subject to obligatory notification;

(b) Decision No. 02007 of 2 August 1988, concerning the practice of therapeutic abortion on serious health grounds endangering the life of the mother and child;

(c) Decree No. 202 of 16 May 1990, concerning inter-agency coordination in matters relating to water, sanitation and the environment;

(d) Decree No. 136 of 5 December 1988, declaring a campaign of national mobilization from 17 to 23 December against the mosquito Aedes aegypti in order to evaluate the problem and work for its eradication;

(e) Decree No. 129 of 4 April 1990, concerning measures to deal with possible breeding-grounds of dengue and yellow fever;

(f) Decree No. 97 of 8 March 1990, ordering the withdrawal from the market of all articles which do not conform to the Health Code.

Steps taken to reduce infant mortality

240. To ensure better health care for Panamanians, the Ministry of Health was established under Cabinet Decree No. 1 of 15 January 1969. Article 24 of this Decree establishes the Mother and Child Department, organized and operating at national level; it is responsible to the General Directorate of Health and runs the Mother and Child Programme and the Adolescents Programme.

241. Activities aimed at reducing mortality are organized through the Mother and Child Programme, which covers every aspect of health control relating to human reproduction and development, both preventive and curative. This involves the comprehensive supervision of women, pregnancy, childbirth, the post-natal period and the whole of childhood.

242. The programme is carried out by professional administrative units at the national, regional and local levels.

243. The programme covers every stage of promoting, safeguarding, diagnosing, treating, restoring and rehabilitating the health of mothers, children and adolescents, by organizing health activities in the community, health centres, health posts, homes, child and family guidance centres, schools and hospitals.

244. In order to make this programme a real success, health groups have been formed made up of doctors, nurses, nursing auxiliaries, health workers, nutritionists, dentists, psychologists, social workers, health instructors, sanitary inspectors, secretaries, and other officials and members of the community.

Steps taken to ensure the healthy development of children

245. Under the aegis of the Mother and Child Department of the Ministry of Health, a subprogramme for children has been established with the aims of providing children and adolescents with opportunities for better health by reducing the risk of disease and death during the process of growth and development, increasing the coverage and quality of health care for children and adolescents, organizing training programmes in coordination with training and education agencies in the field of mother and child care, and devising arrangements for coordination between the various programme implementation, supervision and evaluation bodies.

246. This subprogramme has three immediate action components:

(a) Comprehensive child care, the objective being to engage in activities to promote, protect, diagnose, treat and restore the health of children;

(b) Mother and child education, the objective being to carry out training and further-training programmes for professional and non-professional personnel working in community health and education;

(c) Mother and child research, i.e. medical, social and technical research for the constant upgrading and continuity of health programmes for children.

247. Other action is also taken to record healthy development of the child, in other words, a clinical file is kept on:

(a) Weight and height, head measurements, etc., and age in months;

(b) Physical examination to determine the child's state of development;

(c) Development of the child's immunization programme;

(d) An assessment of the child's state of nutrition or malnutrition based on the weight/height relationship, in accordance with which a supplementary feeding programme for the child is developed;

(e) Research on child health among the population.

248. Further measures to ensure child development have been taken through supervision of feeding and nutrition, the purpose being to provide proper and timely care for children with nutritional problems.

249. In this connection, the healthy development of children is reflected in the children programme's standards and procedures. The growth and development clinic pays attention to the newly-born, the unweaned and the pre-school child, assessing the growth and development of his various biological, psychological and social faculties and emphasizing measures to encourage his development and assess his nutritional state.

250. The national school health programme seeks to ensure the optimum development of their physical and social abilities, through its activities to improve schoolchildren's standard of health and to safeguard, maintain and restore their health. This programme covers the areas of - and activities to promote - all-round health, oral health, nutritional health, school canteens, food production, etc.

Steps taken to safeguard and improve all aspects of industrial and environmental hygiene

251. The ministerial and executive decrees referred to at the beginning of this section are intended to cover every area in which human beings operate.

252. The supply of drinking water and sanitation facilities constitute a step to raise the standard of living.

253. Act No. 22 of 15 November 1982 establishes the Civil Defence organization, which is a further contribution to safeguarding and caring for the needs of the population.

254. Decree No. 29 of 9 March 1990 bans smoking in public places, cinemas, public transport and elsewhere.

255. Act No. 17 of 29 June 1989 bans the consumption of tobacco in any form in all public offices.

256. By these means an effort is being made to reduce mortality due to diseases associated with tobacco addiction, especially lung cancer and chronic respiratory diseases.

General programmes and specific steps, including vaccination programmes

257. An on-going vaccination programme of great benefit to the child population is being implemented at the national level by the Mother and Child Department of the Ministry of Health, in cooperation with other branches of the health sector. The programme comprises all approved types of vaccination, thus combating all epidemic and endemic diseases.

258. The results of this vaccination programme have been positive, one of its achievements having been that there have been no cases of poliomyelitis in our country for over 10 years.

General programmes and specific steps to ensure adequate health services for every population group

259. The Ministry of Health's programmes aim to provide comprehensive care for every member of our society, to which end it is implementing the Mother and Child Programme already mentioned, the Programme for Adolescents and the Programme for Adults.

260. The Programme for Adults covers health care for adults, especially in the most backward areas of the country.

261. At the same time, the programme promotes a broad awareness of diseases, industrial accidents and occupational diseases through its activities and procedures. It also stimulates participation by the community in general and by workers and employers in particular in monitoring and supervising working conditions.

262. In addition, specialist subprogrammes are conducted for diabetics, for the care of elderly patients, and on social hygiene (sexually-transmitted disease clinics).

263. In annex 13, we append the following statistical information on the subject of health:

Table showing infant mortality in the Republic, 1986-1989;

Table showing numbers of hospitals and of beds in hospitals of the Ministry of Health, 1986-1989;

Table No. 431-01: Health Institutions in the Republic, by province and cities of Panama and Colón, March 1987;

Table No. 431-02: Beds, doctors, dentists and nurses in the health institutions of the Republic, by province and district, March 1987;

Graph showing beds in the health institutions of the Republic, by province and cities of Panama and Colón, March 1986-1987;

Table No. 431-03: Beds in the health institutions of the Republic, by area, province and cities of Panama and Colón, March 1986-1987.

Table No. 431-04: Beds in the health institutions of the Republic, by province and Panama City, by service, March 1987;

Graph showing doctors, nurses and dentists in the Republic, by province and the cities of Panama and Colón, March 1987;

Table No. 431-05: Doctors and nurses in the Republic, by area, province and the cities of Panama and Colón, March 1986-1987;

Table No. 431-06: Doctors in the Republic by days worked, by branch and by type of institution, March 1986-1987;

Table No. 431-07: Doctors in the Republic, by sex and speciality, March 1986-1987;

Table No. 431-08: Dentists in the Republic, by area, province and the cities of Panama and Colón, March 1986-1987;

Table No. 431-09: Dentists in the Republic, by branch and by type of institution, March 1986-1987;

Table No. 431-10: Dentists in the Republic, by specialization, March 1986-1987;

Table No. 431-11: Nurses in the Republic, whether specialized or not, by branch and by type of institution, March 1986-1987;

Table No. 431-12: Nurses in the Republic, by field of specialization, March 1986-1987;

Table No. 431-13: Paramedical staff in health institutions in the Republic, by area, province and the cities of Panama and Colón, March 1987;

Table No. 431-14: Capacity and practising professional staff in health institutions having beds, by branch, type, name of institution and province, March 1987;

Table No. 431-15: Monthly hospital capacity index for Panama Province, by name of institution, 1987;

Table No. 431-16: Movement of patients in Panama Province hospitals, by branch, sex and name of institution, 1985, 1986 and 1987;

Table No. 431-17: Out-patient treatment at St. Thomas' Hospital, by sex and by service, 1986-1987;

Table No. 431-18: Movement of patients in St. Thomas' Hospital, by month, 1978-1986 and 1987;

Table No. 431-19: Movement of patients in St. Thomas' Hospital, by sex and by service, 1987;

Table No. 431-20: Movement of patients in the Metropolitan Hospital Complex of the Social Security Fund, by month, 1978-1986 and 1987;

Table No. 431-21: Movement of patients in the Hospital Complex of the Social Security Fund, by sex and by service, 1987;

Table No. 431-22: Out-patient treatment at the Hospital for Children, by sex and by service, 1986-1987;

Table No. 431-23: Movement of patients in the Hospital for Children, by month, 1982-1986 and 1987;

Table No. 431-24: Patients discharged from the Hospital for Children, by sex and average duration of stay and by disease treated, 1987;

Table No. 431-25: Out-patient treatment at the National Psychiatric Hospital, by sex and by month, 1987;

Table No. 431-26: Movement of patients in the National Psychiatric Hospital, by month, 1978-86 and 1987;

Table No. 431-27: Patients admitted to the National Psychiatric Hospital, by type of admission and by sex, 1978-1987;

Table No. 431-28: Patients discharged from the National Psychiatric Hospital, by type of discharge and by sex, 1978-1987;

Table No. 431-29: Movement of patients in the Nicolas A. Solano Hospital, by month, 1978-1986 and 1987;

Table No. 431-30: Movement of patients in the National Cancer Institute, by month, 1984-1986 and 1987;

Table No. 431-31: Movement of patients in the General Victoriano Lorenzo Block, by month, 1983-1986 and 1987;

Table No. 431-32: Movement of patients in Chepo Hospital, by month, 1981-1986 and 1987;

Table No. 431-33: Movement of patients in private hospitals in Panama City, by month, 1983-1986 and 1987.

Annex

Reference documents*

1. Annex 1-A The employment situation in Panama as a result of the crisis

2. Annex 1-B Changes in the employment situation in Panama, according to household surveys (August 1987-1988)

3. Annex 1-C Intensive Use of Manpower (UIMO) Project

4. Annex 1-D Labour Bank Project

5. Annex 1-E Decision NDM-38/88 on the Self-Employment Assistance Office within the Ministry of Labour and Social Welfare

6. Annex 1-F Report on the Tools Bank

7. Annex 1-G Project PAN/86/010 of the Ministry of Labour and Social Welfare, UNDP and ILO, on "Employment policies and programmes", 1987-1990

8. Annex 1-H Decrees and communiqués

9. Annex 2 Statistical tables

10. Annex 3 Decree No. 3 of 4 March 1980 establishing the minimum wage for Canal work

11. Annex 4 Decree No. 21 of 1 December 1980 establishing minimum wages throughout the country

12. Annex 5 Joint labour agreement concluded between the Panamanian Chamber of the Construction Industry and the National Union of Construction and Allied Workers, Vols. I and II, Panama, 14 January 1988

13. Annex 6 Special agreement between the Panamanian Chamber of Construction and the National Union of Construction and Associated Workers

14. Annex 7 Statistical tables

---

* These documents, submitted by the Government of Panama in Spanish, may be consulted at the Centre for Human Rights.

15. Annex 8 Statistics on factory inspections and industrial accidents

16. Annex 10 Statistics on strikes, workers affected, working hours' lost, social organizations involved, by branch of economic activity, in 1986, 1987 and 1988

17. Annex 11 Statistics on the distribution of Social Security Fund expenditure in the Republic, by risk and purpose, in 1986-89

18. Annex 12 Work permits granted by the Ministry of Labour and Social Welfare to minors, 1985-88, 1988 and 1989

19. Annex 13 Statistics on the social situation and health services in 1987.